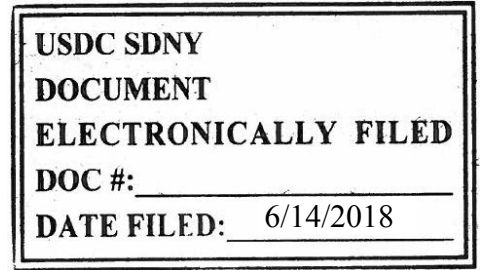




June 14, 2018



Via Electronic Filing

Hon. Sarah Netburn
United States Magistrate Judge
United States District Court
for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *Centauro Liquid Opportunities Master Fund, L.P. v. Bazzoni, et al.*, No. 15-cv-9003 (LTS) (SN)

Dear Judge Netburn:

I write on behalf of Plaintiff Centauro Liquid Opportunities Master Fund, L.P. ("Centauro") to respectfully request permission to depose a defense witness, Eduardo Cisneros, on July 17, 2018, after the June 18, 2018 discovery deadline. Centauro understands the Court's prior orders regarding discovery extensions for unscheduled depositions. *See* ECF Nos. 189, 194. However, the parties have been attempting, in good faith, to schedule Mr. Cisneros' deposition for several months, and have been unable to do so because of the witness's unavailability.

Mr. Cisneros has sworn a declaration in support of Defendant CT Energia Ltd. Malta d/b/a Elemento Ltd. ("Elemento") in this case. *See* Declaration of Eduardo Cisneros, ECF No. 169 (Dec. 21, 2017). His testimony is relevant to the parties' dispute regarding Elemento's alter ego status. Although Elemento has represented that Mr. Cisneros is not employed by Elemento, it has agreed to coordinate with him to sit for the deposition voluntarily. Centauro first requested the deposition in early March 2018, and has followed up with its request on multiple emails and during two telephonic meet-and-confers on May 1 and May 24. In the parties May 25, 2018 joint letter, Centauro updated the Court regarding this issue:

Centauro has also requested a deposition of Mr. Eduardo Cisneros, who provided a declaration in this action, and is associated with Elemento. Although he is not employed by Elemento, Elemento's counsel is working with Centauro in good faith to determine whether Mr. Cisneros will voluntarily appear.

Joint Letter, ECF No. 188 (May 25, 2018). On June 8, 2018, after further requests from Centauro regarding a deposition of Mr. Cisneros, Elemento stated that Mr. Cisneros would not be available until July 17, 2018, due to his international travel. Given that the parties' opening summary judgment filings are due July 18, 2018, Centauro was reluctant to proceed. However, Elemento has provided assurances that Mr. Cisneros cannot be available any earlier.

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Centauro would prefer that Mr. Cisneros's deposition be held as soon as possible and has requested that Elemento update Centauro if Mr. Cisneros becomes available before July 17th. Although the deposition would occur one day before the summary judgment deadline, Centauro does **not** intend to request any change to that deadline (or any others) on account of this deposition – should the Court grant the requested leave.

Defendant Elemento consents to Centauro's request.

On May 16, 2018, the parties requested a 30-day extension to the discovery deadline. The Court granted the motion and directed the parties to submit a status letter by May 25, 2018, listing the dates for all of the depositions that the parties wished to take before the close of discovery. The Court also warned the parties that it did not anticipate granting any further extensions to the discovery deadline. On May 25, 2018, the parties filed a joint status letter, which listed the dates for a few witnesses' depositions but indicated that the parties planned to schedule additional depositions. The parties also requested permission to depose Ms. Yvonne Morabito after the June 18, 2018 discovery deadline. The Court granted this request but warned the parties that they should not anticipate that the Court would further extend the discovery deadline (or make further exceptions to it) to accommodate depositions that had not yet been scheduled. On June 11, 2018, Elemento Ltd. sought permission to depose Mr. Carlos Galindez on June 22, 2018, after the discovery deadline. The Court reluctantly granted this request but again warned the parties that they should not anticipate further extensions or exceptions to the discovery deadline.

Now the plaintiff requests permission to depose Mr. Eduardo Cisneros after the deadline for discovery. Given that Mr. Cisneros is a third party who has agreed to appear for a deposition voluntarily, the request is GRANTED. Mr. Cisneros may be deposed after the discovery deadline but no later than July 17, 2018. The Court will not grant any further extensions or exceptions to the deadline for discovery. The Clerk of Court is respectfully directed to terminate the motion at ECF No. 195.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

June 14, 2018
New York, New York